

Amendments to the Drawings:

The attached one (1) sheet of drawings includes changes to Figure 1 only.

This sheet, which contains Figures 1 and 2 only, replaces the original drawing sheet that also contained Figures 1 and 2 only. The original drawing sheets containing Figures 3 through 5 are not being replaced.

In Figure 1, blockage of a second and smaller pulmonary artery with the sensing unit is now shown, consistent with the description in the last paragraph on page 11 of the specification.

Attachment(s): Replacement Sheet (1)

REMARKS

As of the filing of this Reply, claims 2-5, 8, 9, 17-21, and 30-33 were pending in the above-identified US Patent Application.

In the Office Action, the Examiner objected to the drawings, rejected claims 9 and 31 under 35 USC §112, second paragraph, and rejected all of the claims under 35 USC §103 based on U.S. Published Patent Application No. 2002/0151816 to Rich et al. in view of U.S. Patent No. 7,147,604 to Allen et al. (Allen) and U.S. Patent No. 4,869,263 to Segal et al. (Segal), and in some cases in further view of one or more of the following references: U.S. Patent No. 6,252,548 to Ishikawa, U.S. Patent No. 6,409,674 to Brockway et al. (Brockway), and U.S. Patent No. 5,662,712 to Pathak et al. (Pathak). In response:

Figure 1 has been amended in the manner and for the reasons set forth in the above "Amendments to the Drawings" section of this Reply.

Independent method claim 30 has been amended to cancel the phrase "configured to block."

Dependent claim 9 has been amended to rephrase its limitation with the intent of providing further clarity.

Dependent claim 31 has been amended to rephrase its limitation in more definite terms of a step of the claimed method, consistent with the last paragraph on page 11 of the specification.

New dependent claim 34 has been presented to further describe the blockage of the second pulmonary artery as disclosed in the last paragraph on page 11 of the specification.

Applicants respectfully request favorable reconsideration of method claim 30 and its dependent claims in view of the above amendments and the following remarks.

Objection to the Drawings

The Examiner objected to the drawings under 37 CFR §1.83(a) for failing to show every feature of the invention specified in the claims. In particular, the Examiner explained that “the sensor package being configured to block a pulmonary artery of the patient and/or blocking the second pulmonary artery with the sensor package, as claimed in claim 30 must be shown or the feature(s) canceled from the claim(s).”

Applicants believe the phrase “said sensor package . . . being . . . configured to block a pulmonary artery of the patient” finds support in Figure 1

as filed in view of the rectangular profile of the sensor 50 shown in original Figure 1 and the description on page 11 of the sensor having a “diameter,” indicating a cylindrically-shaped sensor 50. However, to advance the examination of the application, Applicants have deleted the phrase “configured to block” from claim 30.

In addition, and as noted above, Applicants have submitted with this Reply a “Replacement Sheet,” in which Figure 1 has been revised to show a pulmonary artery blocked with the sensor package, as claimed in claim 30. The replacement Figure 1 does not go beyond the scope of the application as filed, in that it shows a second and smaller pulmonary artery blocked as described in the last paragraph of page 11 of the specification and in accordance with the ordinary meaning of the word “blocked.”

In view of the above, Applicants respectfully request withdrawal of the Examiner's objection under 37 CFR §1.83(a).

Rejection under 35 USC §112, Second Paragraph

Dependent claims 9 and 31 were rejected as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicants regard as their invention.

Under the rejection of claim 9, the Examiner questioned whether the step of “telecommunicating and/or telepowering said sensing device with a readout device” meant that “the invention further comprises telecommunicating or telecommunicating with a readout device.” In response, Applicants have amended claim 9 to recite the claimed limitation as a step in which a readout device is used to telecommunicate with and/or telepower the sensing device. Applicants respectfully believe that this amendment overcomes the grounds for the §112 rejection of claim 9, and therefore respectfully requests its withdrawal.

Under the rejection of claim 31, the Examiner advised that “the limitations appear to be apparatus or device limitations.” In response, Applicants have amended claim 31 to use expressly use method/step terminology, and therefore also respectfully withdrawal of the §112 rejection of claim 31.

Rejections under 35 USC §103

As noted above, independent claim 30 and its dependent claims were rejected as being unpatentable over Rich in view of Allen and Segal, and in some cases in further view of Ishikawa, Brockway, and/or Pathak.

Applicants respectfully request reconsideration of these rejections in view of the following comments.

Rich is a 102(e)/103 reference. Furthermore, Applicants' invention and Rich were commonly assigned at the time the present invention was made, as evidenced by the assignment records of the U.S. Patent and Trademark Office. 37 CFR 1.104(a)(5)(i); MPEP 706.02(I)(2)(II)(A). As discussed at MPEP 706.02(I)(1), 35 USC §103(c) disqualifies Rich as prior art against Applicants' claimed invention. Applicants' therefore respectfully request withdrawal of all §103 rejections in which Rich was applied as a reference, and ask that their patent application be given favorable reconsideration.

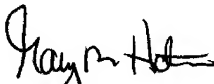
Closing

Though the above remarks relating to the prior art rejections are limited to the disqualification of Rich as prior art, Applicants believe that limitations of the claims provide additional grounds of patentability over the cited references, and Applicants reserve the right to present these additional grounds at a later time if necessary.

Application No. 10/679,888
Docket No. A4-1765
Submission dated April 27, 2009
In Response to Office Action dated January 27, 2009

Should the Examiner have any questions with respect to any matter
now of record, Applicants' representative may be reached at (219) 462-4999.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gary M. Hartman", with a stylized flourish at the end.

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April 27, 2009
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Attachment: Replacement Drawing Sheet (1)